S.B.CIVIL WRIT PETITION NO. 1538/2006
K.C. Complex
Versus.
Ajmer Vidhyut Vitran Nigam Limited and others.
10/10/2006

HON'BLE MR.JUSTICE ASHOK PARIHAR.

Mr. Praveen Balwada, for the petitioner.
Mr. Virendra Lodha, for the respondents.

This is yet another case of highhandedness, arbitrariness and absolutely non-application of mind by the authorities concerned.

The sole owner of the petitioner-Complex Smt. Bhagirathi Devi had nothing to do with M/s. Kanodia Rubber Private Limited, Bhilwara. Admittedly, she had no connection with the affairs and liability of the above company. There is also nothing on record to show that any of the Partners/Directors of the above company had any investment or share in the petitioner-company. As such, by no stretch of imagination and under no circumstances, the amount due against the said Company-M/s. Kanodia Rubber Private Limited, Bhilwara could be recovered from the petitioner. Learned counsel for the respondents also could not satisfy as to why and under what circumstances, the due amount could not be recovered from the company. It was only under pressure and compelling circumstances, the petitioner had to deposit the amount to get the power connection for the complex. Learned counsel for the respondent-Nigam could not show any Rules, Regulations or even Circulars that the due amount can be recovered from any member of the family who has even no relation whatsoever with the affairs of the Company. Under the circumstances, the above action of the respondents on the face of it is illegal, unjustified and arbitrary.

Accordingly, the writ petition is allowed. The respondents are directed to refund the amount of Rs. 3,90,000/- so deposited by the petitioner against the dues of M/s. Kanodia Rubber Private Limited, Bhilwara within thirty days from the date of receipt of certified copy of this order. Since the petitioner was not at all liable to pay

the amount so claimed, the respondents are further directed to pay interest on the above amount at the rate of 12% per annum from the date the amount was deposited till the date the same is refunded. The petitioner is also held entitled for a cost of Rs. 30,000/- which may be paid along with the amount as ordered above.

(Ashok Parihar), J.